



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Xperts, Inc.

**File:** B-244761.2

**Date:** September 6, 1991

Alberto Gonzalez, Jr., for the protester, Christina Sklarew, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Dismissal of protest on the ground that contractor had no right to compel an agency to exercise an option is affirmed where request for reconsideration is based on repetition of arguments concerning agency's motivation for issuing new solicitation that were considered in original protest.

### DECISION

Xperts, Inc. requests reconsideration of our dismissal of the firm's protest against solicitation No. N62470-91-B-5418, issued by the Department of the Navy for grounds maintenance services at the United States Naval Station in Roosevelt Roads, Puerto Rico.

In March 1989, Xperts was awarded a contract for grounds maintenance services for a base period of 1 year, with two 1-year options. In its original protest, Xperts presented a confusing account of a series of events following that award, involving a dispute about the scope of work that was required under the contract, a claim that was filed under the disputes clause, a controversy involving hurricane-related damage to the contractor's facilities, various procurements of different services on which the protester also bid, and the agency's exercise or refusal to exercise each of the options under Xperts's contract for grounds maintenance services. Xperts characterized its protest as "based upon unfair practices, persecution and discrimination from the government against our company," and requested that the current solicitation be canceled and that the protester be given "at least one option for an additional period of service."

We dismissed the protest on the basis that a contractor has no legal right to compel the exercise of a contract option, which is exercised solely at the discretion of the government. See California Shorthand Reporting, B-236680, Dec. 22, 1989, 89-2 CPD ¶ 584. Xperts asserts, in its request for reconsideration, that its protest was "filed on grounds of persecution and discriminatory action," and contends that we failed to evaluate the protest on these grounds.

We did not discuss this aspect of Xperts's protest in our dismissal because we found that the entire matter was outside the scope of our review in any case. Before we may consider whether an agency has improperly denied a protester its right, we must find that the right being asserted is, in fact, one that is encompassed within our bid protest function. In addition to the fact that a contractor cannot compel an agency to exercise an option in its contract, as discussed in our dismissal, the decision of whether or not to exercise an incumbent contractor's option is a matter of contract administration and not within the purview of our protest function. See The Big Picture Co., Inc., B-220859, Oct. 31, 1985, 85-2 CPD ¶ 512. Thus, even where the protester alleges that the agency's refusal to exercise an option is motivated by retaliation, we will not consider the matter. See id.

Our prior dismissal is affirmed.

  
Ronald Berger  
Associate General Counsel